

# Notice of Allowability

Application No.

10/688,234

Examiner

JOHN PAK

Applicant(s)

RAPP, GARY L.

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Applicant's response of 5/16/2007.
2. ☒ The allowed claim(s) is/are 1-7, 9-13, 49-60, 44-48, and 61-65 [renumbered as 1-34].
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.


Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
JOHN PAK  
PRIMARY EXAMINER  
GROUP 1600

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Zarley on 8/14/2007.

**Amendment to the Claims**

CANCEL claims 14 to 43.

Claim 1. (Currently amended) An odor control product for treating digestible and odiferous organic waste to minimize odors, including:

about 10-15% adipic acid;

about 65-75% alcohol, wherein the alcohol (i) allows said adipic acid to enter into suspension in the presence of water, (ii) has disinfectant properties, and (iii) has antifreeze properties to inhibit said product from freezing;

an oil ingredient selected from the group consisting of about 15-20% vegetable oil, 0.1-2% eucalyptus oil, and mixtures thereof; and  
water.

Claim 2. (Currently amended) An odor control product for treating digestible and odiferous organic waste to minimize odors as set forth in claim 1, wherein said eucalyptus oil is present in the product.

Claim 3. (Currently amended) An odor control product for treating digestible and odiferous organic waste to minimize odors as set forth in claim 1, wherein the product includes about 12.5% adipic acid, about 70% said alcohol, said oil ingredient, and the remainder water.

Claim 4. (Currently amended) An odor control product for treating digestible and odiferous organic waste to minimize odors as set forth in claim 2, wherein the product includes about 12.5% adipic acid, about 70% said alcohol, about 0.5% eucalyptus oil, and the remainder water.

Claim 7. (Currently amended) An odor control product for treating digestible and odiferous organic waste to minimize odors as set forth in claim 2, wherein the product includes about 10-15% adipic acid, about 65-75% said alcohol, about 0.25-2% eucalyptus oil, and the remainder water.

Claim 9. (Currently amended) An odor control product for treating digestible and odiferous organic waste to minimize odors as set forth in claim 1, wherein said vegetable oil is present in the product.

Claim 13. (Currently amended) An odor control product for treating digestible and odiferous organic waste to minimize odors as set forth in claim 1, wherein said alcohol is ethanol.

Claim 44. (New) An odor control product for treating digestible and odiferous organic waste to minimize odors, including:

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about 1.25-12.5% adipic acid;

about 7-12% alcohol, wherein the alcohol (i) allows said adipic acid to enter into suspension in the presence of water, (ii) has disinfectant properties, and (iii) has antifreeze properties to inhibit said product from freezing;

an oil ingredient selected from the group consisting of about 15-20% vegetable oil, 0.1-2% eucalyptus oil, and mixtures thereof; and

water.

Claim 45. (New) An odor control product for treating digestible and odiferous organic waste to minimize odors as set forth in claim 44, wherein the product includes about 12.5% adipic acid, about 9% said alcohol, about 17% vegetable oil, and the remainder water.

Claim 46. (New) An odor control product for treating digestible and odiferous organic waste to minimize odors as set forth in claim 44, wherein the product includes about 12.5% adipic acid, about 9% said alcohol, about 17% vegetable oil, about 0.2% eucalyptus oil, and the remainder water.

Claim 47. (New) An odor control product for treating digestible and odiferous organic waste to minimize odors as set forth in claim 44, wherein the product includes about 1.25-12.5% adipic acid, about 7-12% said alcohol, about 15-20% vegetable oil, about 0.1-2% eucalyptus oil, and the remainder water.

Claim 48. (New) An odor control product for treating digestible and odiferous organic waste to minimize odors as set forth in claim 44, wherein said alcohol is ethanol.

Claim 49. (New) A method of treating digestible and odiferous organic waste to minimize odors including the steps of:

- preparing the product of claim 1; and
- introducing the product to the waste.

Claim 50. (New) A method of treating digestible and odiferous organic waste to minimize odors including the steps of:

- preparing the product of claim 2; and
- introducing the product to the waste.

Claim 51. (New) A method of treating digestible and odiferous organic waste to minimize odors including the steps of:

- preparing the product of claim 3; and
- introducing the product to the waste.

Claim 52. (New) A method of treating digestible and odiferous organic waste to minimize odors including the steps of:

- preparing the product of claim 4; and
- introducing the product to the waste.

Claim 53. (New) A method of treating digestible and odiferous organic waste to minimize odors including the steps of:

preparing the product of claim 5; and

introducing the product to the waste.

Claim 54. (New) A method of treating digestible and odiferous organic waste to minimize odors including the steps of:

preparing the product of claim 6; and

introducing the product to the waste.

Claim 55. (New) A method of treating digestible and odiferous organic waste to minimize odors including the steps of:

preparing the product of claim 7; and

introducing the product to the waste.

Claim 56. (New) A method of treating digestible and odiferous organic waste to minimize odors including the steps of:

preparing the product of claim 9; and

introducing the product to the waste.

Claim 57. (New) A method of treating digestible and odiferous organic waste to minimize odors including the steps of:

preparing the product of claim 10; and

introducing the product to the waste.

Claim 58. (New) A method of treating digestible and odiferous organic waste to minimize odors including the steps of:

- preparing the product of claim 11; and
- introducing the product to the waste.

Claim 59. (New) A method of treating digestible and odiferous organic waste to minimize odors including the steps of:

- preparing the product of claim 12; and
- introducing the product to the waste.

Claim 60. (New) A method of treating digestible and odiferous organic waste to minimize odors including the steps of:

- preparing the product of claim 13; and
- introducing the product to the waste.

Claim 61. (New) A method of treating digestible and odiferous organic waste to minimize odors including the steps of:

- preparing the product of claim 44; and
- introducing the product to the waste.

Claim 62. (New) A method of treating digestible and odiferous organic waste to minimize odors including the steps of:

- preparing the product of claim 45; and
- introducing the product to the waste.

Claim 63. (New) A method of treating digestible and odiferous organic waste to minimize odors including the steps of:

preparing the product of claim 46; and  
introducing the product to the waste.

Claim 64. (New) A method of treating digestible and odiferous organic waste to minimize odors including the steps of:

preparing the product of claim 47; and  
introducing the product to the waste.

Claim 65. (New) A method of treating digestible and odiferous organic waste to minimize odors including the steps of:

preparing the product of claim 48; and  
introducing the product to the waste.

**Amendment to the Specification**

Page 1, line 5: after "12 November 2002," insert --- now U.S. Patent No.  
6,997,139, --- .

Page 2, between line 26 and line 27, insert the following new paragraphs -----

The present invention provides an odor control product for treating digestible and odiferous organic waste to minimize odors, including:

about 10-15% adipic acid;



about 65-75% alcohol, wherein the alcohol (i) allows said adipic acid to enter into suspension in the presence of water, (ii) has disinfectant properties, and (iii) has antifreeze properties to inhibit said product from freezing;

an oil ingredient selected from the group consisting of about 15-20% vegetable oil, 0.1-2% eucalyptus oil, and mixtures thereof; and  
water.

The present invention further provides an odor control product for treating digestible and odiferous organic waste to minimize odors, including:

about 1.25-12.5% adipic acid;

about 7-12% alcohol, wherein the alcohol (i) allows said adipic acid to enter into suspension in the presence of water, (ii) has disinfectant properties, and (iii) has antifreeze properties to inhibit said product from freezing;

an oil ingredient selected from the group consisting of about 15-20% vegetable oil, 0.1-2% eucalyptus oil, and mixtures thereof; and  
water.

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#### **Rejoinder**

Claims 1-7, 9-13 and 44-48 are directed to an allowable product. Pursuant to the procedures set forth in MPEP § 821.04(b), new claims 49-65, directed to the method of

making or using the allowable product, which would have been previously withdrawn from consideration as a result of a restriction requirement had they been presented before, are hereby rejoined and fully examined for patentability under 37 CFR 1.104. Claims 16-42 (now canceled), directed to method inventions which do not require all the limitations of an allowable product claim, have NOT been rejoined.

Because a claimed invention that would have been previously withdrawn from consideration along with the rest of the method inventions under 37 CFR 1.142 has been rejoined, **the restriction requirement between groups I and II as set forth in the Office action mailed on 4/5/2007 is hereby withdrawn.** In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

U.S. Patent 5,718,887 is cited to further show the state of the art.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to JOHN PAK whose telephone number is **(571)272-0620**. The Examiner can normally be reached on Monday to Friday from 8 AM to 4:30 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's SPE, Johann Richter, can be reached on **(571)272-0646**.

The fax phone number for the organization where this application or proceeding is assigned is **(571)273-8300**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571)272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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